IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 9498 of 2005

DATE OF DECISION : 13.11.2006

Tej Bahadur Singh

.....PETITIONER

VERSUS

Haryana Vidyut Parsaran Nigam Ltd. and ohters

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI

PRESENT: Mr.DV Gupta, Advocate for the petitioner.

Mr. DK Jhangra, Advocate for respondents.

M.M.S.BEDI,J.

The petitioner, an employee of Haryana Vidyut Parsaran Nigam Ltd., has filed this writ petition under Articles 226/227 of the Constitution seeking a writ in the nature of certiorari for quashing order dated 23.8.2004 (Annexure P-8) rejecting his claim of reimbursement in the sum of Rs. 1,42,476/ spent by him towards his emergency treatment from Hero DMC Heart Institute, Ludhiana from 27.5.2002 to 12.6.2002. He claims that another employee of the respondent-Department who had taken the treatment from 7.7.1998 to 25.7.1998 from Dayanand Medical College and Hospital, Ludhiana, has been granted the reimbursement vide order dated 9.10.2001 (Annexure P-6).

The respondents in the joint written statement have tried to justify order dated 23.8.2004 (Annexure P-8) on the ground that the case of the petitioner has been decided as per instructions of the H.V.P.N.L. dated 5.3.2004 wherein it has been provided that the treatment taken as an emergency from a private hospital prior to 17.7.2002 may not be considered for reimbursement. As the petitioner's case for medical reimbursement pertains to the period from 27.5.2002 to 12.6.2002 i.e. prior to 17.7.2002, he is not entitled to medical reimbursement. It has been admitted in the written statement that Ramesh Kumar A.L.M. working with the respondents has been granted the medical reimbursement but his case was different from the case of the petitioner as he had taken the medical aid in emergency situation.

We have heard learned counsel for the parties and gone through the entire paper book including the impugned order wherein it is mentioned that in view of instructions dated 5.3.2004 all the cases for the treatment taken from a private hospital prior to 17.7.2002 may not be considered for medical reimbursement. It is not disputed that the employees of the respondent-Department are entitled for reimbursement of the medical bills under Rule -6 of the Punjab Service (Medical) Attendance Rules 1940 contained in appendix-XXII-A of the Punjab Medical Manual and Edition read with relevant orders issued from time to time. It is also an admitted fact that vide order dated 9.10.2001 (Annexure P-6) Ramesh Kumar, another employee of the Department, had been reimbursed the medical expenses incurred by him on his treatment from 7.7.1998 to 25.7.1998. Though the respondents have placed reliance on instructions dated 5.3.2004 but no such letter has been produced on record. Even otherwise, the said instructions

cannot be made operative retrospectively laying down that cases of treatment taken in an emergent situation from a private hospital prior to 17.7.2002 may not be considered. We do not find any force in the plea taken by the respondents that the petitioner had not under gone the treatment in emergency or that his case is not at par with the case of another employee, namely, Ramesh Kumar. The act of the respondents in classifying the employees for the purpose of reimbursement of the medical bills by prescribing the cut off date is unreasonable. The said classification does not seem to have any rational nexus to the object sought to be achieved by the scheme of medical reimbursement. Moreover, the respondents cannot adopt the policy of pick and choose for the purpose of granting or denying the reimbursement benefit. The action of the respondents in withholding the reimbursement benefit to the petitioner regarding the treatment undertaken by him at a private hospital is illegal, arbitrary, improper and not sustainable in the eyes of law.

In view of the above, we allow the writ petition, quash order dated 23.8.2004 (Annexure P-8) and direct the respondents to consider the case of the petitioner for medical reimbursement within a period of two months from the receipt of a certified copy of this order and reimburse him the entire medical expenses incurred by him on his treatment, as per rules.

(M.M.S.BEDI)
JUDGE

(M.M.KUMAR)
JUDGE

November 13,2006
TSM